

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

UNITED STATES OF AMERICA

Case No. MJ-22- 50-BU-KLD

v.

Melvin Omar Garcia Lopez

**AFFIDAVIT OF MARK D. SLOAN
IN SUPPORT OF A CRIMINAL COMPLAINT**

I, Mark D. Sloan, being duly sworn, upon depose and states:

- 1) Your affiant is a Deportation Officer (DO) with the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE) and as such, is designated by the Secretary of the Department of Homeland Security to investigate violations of the Immigration and Nationality Act under Title 8 United States Code.
- 2) Your affiant has been employed as a federal law enforcement officer since 2008. This office has jurisdiction over the state of Montana.
- 3) In my capacity as a Deportation Officer, I have reviewed the official DHS records (A088 737 942) and DHS automated biometric data related to Melvin Omar Garcia Lopez which attest

to the following:

- a. Garcia is a thirty-eight (38) year-old male, native and citizen of Honduras who re-entered the United States on an unknown date illegally and without permission after February 21, 2019.
- 4) On October 30, 2022, the Bozeman Police Department arrested Garcia for assault with a weapon based on an incident on October 29, 2022. At the time of his arrest, he provided the officers with an identification with a different name. The Gallatin County Detention Center (GCDC) contacted the DHS ERO duty officer, DO Sloan, to confirm Garcia's foreign identity.
- 5) DO Sloan conducted records checks pursuant to Title 8 U.S.C. Section 1357 for alienage and deportability. Record checks revealed his full name, date of birth (1984) and that Garcia had been previously removed from the United States. Garcia is a citizen and national of Honduras, who is not in possession of the proper immigration documents to allow him to enter or remain in the United States legally.
- 6) On October 30, DO Sloan requested GCDC send a copy of Garcia's fingerprints and photo for biometric search through Automated Biometric Identification System (IDENT), Next

Generation Identification (NGI), and Automated Biometric Identification System (ABIS) systems for further identification. Fingerprint queries came back positive for criminal history and immigration encounters. ABIS was negative.

- 7) On October 31, 2022, ICE Form I-247A detainer and warrant of removal, Form I-200 was subsequently lodged and served on Garcia.
- 8) On October 31, 2022, DO Sloan interviewed Garcia via phone in Spanish, through an interpreter, at Gallatin County Detention Center. Garcia stated he understood his rights and was willing to answer interview questions on the sworn statement without an attorney present. The interview was witnessed by the Lionbridge Language Service interpreter, (Tania – ID#: 1727). Garcia confirmed his alienage and unlawful status in the United States. During the interview, Garcia request to no longer answer questions. The interview stopped at that time.
- 9) On November 30, 2022, GCDC notified DO Sloan that the Gallatin County Attorney's Office moved to dismiss their felony assault with a weapon case against Garcia. At that time, DO Sloan received a copy of the order dismissing the felony assault with a

weapon case against Garcia.

10) A review of Garcia's immigration history showed the following:

- a. On May 8, 2011, the U.S. Border Patrol arrested Garcia and served him a Notice to Appear, Form I-862. On May 26, 2011, an immigration judge ordered Garcia removed. On June 30, 2011, ERO removed Garcia through the Phoenix, Arizona port of entry.
- b. On August 24, 2013, the U.S. Border Patrol arrested Garcia and served him a Notice of Intent to Issue a Final Administrative Removal Order. On October 3, 2014, ERO removed Garcia through the New Orleans, Louisiana port of entry.
- c. On June 21, 2016, the U.S. Border Patrol arrested Garcia and served him a Notice of Intent to Issue a Final Administrative Removal Order. On July 20, 2016, ERO removed Garcia through the Phoenix, Arizona port of entry.
- d. On December 4, 2016, the U.S. Border Patrol arrested Garcia and served him a Notice of Intent to Issue a Final

Administrative Removal Order. On January 12, 2017, ERO removed Garcia through the Phoenix, Arizona port of entry.

- e. On January 3, 2019, the U.S. Border Patrol arrested Garcia and served him a Notice of Intent to Issue a Final Administrative Removal Order. On February 22, 2019, ERO removed Garcia through the Phoenix, Arizona port of entry.

11) Criminal record checks indicate the following:

- a. On March 9, 2008, the Fairfield County Sheriff's Office (California) arrested Garcia for misdemeanor theft. The charges in this case were dismissed.
- b. On August 24, 2013, the Ward County Sheriff's Office (North Dakota) arrested Garcia for misdemeanor trespassing. The charges in this case were dismissed.
- c. On June 22, 2016, The United States District Court – Southern District of California convicted Garcia of 8 U.S.C. § 1325(a)(1), illegal entry. Garcia was sentence to 10 days confinement.
- d. On December 6, 2016, The United States District Court – Southern District of California convicted Garcia of 8 U.S.C.

§ 1325(a)(1), illegal entry. Garcia was sentence to 20 days confinement.

e. On January 11, 2019, The United States District Court – Southern District of California convicted Garcia of 8 U.S.C.

§ 1325(a)(2), illegal entry. Garcia was sentence to 30 days confinement.

f. On October 29, 2022, the Bozeman Police Department arrested Garcia for assault with a weapon (knife). The charges in this case were dismissed.

12) There is no indication in the files of DHS that Garcia ever applied for or obtained the permission of the United States Attorney General or his successor the Secretary of the Department of Homeland Security to reenter the United States.

13) On the basis of the facts above, your affiant believes that there is probable cause to believe that Melvin Omar Garcia Lopez has violated 8 U.S.C. Sections 1326(a) and (b) – illegal re-entry of a deported/removed alien.

/s/ Mark D. Sloan

Mark D. Sloan
Deportation Officer

Department of Homeland Security
Enforcement Removal Operations
Helena, Montana

Attested to by the applicant in accordance with the requirements of Fed. R.
Crim. P. 4.1 by telephone this 1st day of December 2022.



Honorable Kathleen L. DeSoto
United States Magistrate Judge
District of Montana
Missoula, Montana